

## **Chapter 9**

### **Procurement and Financial Assistance**

It is Office of Water policy that quality system requirements be explicitly addressed when acquiring items and/or services that may result in or relate to the collection and/or use of environmental data. This policy applies to procurements such as contracts, as well as to cooperative agreements, partnership agreements, grants to institutions of higher education, and other non-profit organizations, Tribes, States, and local governments, and interagency agreements. The following Federal regulations contain sections relating to quality management or quality systems:

- 48 CFR Part 46. Quality Assurance
- 40 CFR Part 30. Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 40 CFR Part 31. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 40 CFR Part 35. State and Local Assistance

In addition, there are other rules and regulations that apply to contracts and other forms of financial assistance, including grants, assistance agreements, performance partnership agreements, and interagency agreements, as described below.

#### **Contracts**

Contracts are used when the principal purpose of acquiring the service or item is for the direct benefit or use of EPA. Obtaining services through contracting constitutes the largest extramural activity of the Office of Water. The Office of Water conducts procurement functions in accordance with the Federal Acquisition Regulations (FAR), and generally accepted business practices for the acquisition process. The FAR was recently amended to address contract quality systems requirements on a government-wide basis. The new FAR contract clause at 52.246-11, *Higher-Level Contract Quality Requirement* (February 1999), as prescribed by FAR 46.311, allows a Federal agency to select a voluntary consensus standard as the basis for its quality requirements for contracts, and identifies ANSI/ASQC E4-1994, *Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs*, as an acceptable standard.

Due to these FAR changes, EPAAR 1546.2, *Contract Quality Requirements* (March 1984), which is a quality regulation that applies only to EPA, was determined to be unnecessary and the pertinent requirements from EPAAR 1546.2 will be included in the EPA Directive 1900, *Contracts Management Manual* (CMM).

Office of Water program management staff and quality management staff play active roles in assisting the contract management staff in defining the quality system requirements for contracts. Contracts involving the collection of either primary or secondary environmental data will include requirements for the provision of a quality management plan and quality assurance project plans, or other appropriate quality system documentation.

The EPA Office of Acquisitions Management issued Procurement Policy Notice No. 01-02 in March 2001 that provides guidance for the use of these higher-level contract quality requirements. Notice 01-02 includes two attachments that provide directions for contracting officers and their representatives in the program offices (e.g., Project Officer and Work Assignment Managers), as well as

quality system staff, and describe the process for determining the quality system requirements that must be included in contract acquisition packages. These two attachments are included in Attachment C of this quality management plan.

Office of Water quality system staff also will assist in the contracting process by evaluating quality system documentation submitted by contractors in response to either pre-award or post-award requirements. As noted in the *EPA 1900 -- Contracts Management Manual*, a member of the Office of Water quality system staff at the appropriate level will be a member of the Technical Evaluation Panel for procurements over \$500,000, in cases where quality system requirements are applicable to the procurement. Quality Assurance Coordinators or Quality Assurance Officers from the relevant program will generally fulfill this role.

Quality management procedures are outlined in *Staying on Course - A Guide for OW Work Assignment Managers* (EPA 8-B-93-003). Final approval of deliverables and services is the responsibility of the EPA work assignment manager with possible assistance from quality system staff at the appropriate level within the Office of Water (e.g., the Quality Assurance Coordinator). Deliverables and services that do not meet established requirements shall be identified, documented, and corrected by the contractor.

## **Financial Assistance**

### *Grants and Assistance Agreements*

Assistance agreements are used to support or stimulate activities that are not principally for the direct benefit of EPA. If the project involves environmentally-related measurements or generation of either primary or secondary data, then the applicant/recipient must develop and implement a quality management system. *Grants* are assistance agreements where EPA has no substantial involvement in the project. *Cooperative agreements* are assistance agreements where EPA has substantial involvement in the project.

All assistance agreements originating within the Office of Water must meet established administrative and quality assurance requirements in the latest editions of the following:

- *Assistance Administration Manual*, EPA Directive 5700, 1984 Edition (or later);
- EPA Order 5700.1, Policy for Distinguishing Between Assistance and Acquisition, March 22, 1994
- EPA Order 5730.1, Policy and Procedures for Funding Assistance Agreements, January 21, 1994
- 40 CFR Part 30, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 40 CFR Part 31, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 40 CFR Part 35, State and Local Assistance

As stated in *Managing Your Financial Assistance Agreement* (EPA 202-B-94-001, May 1994), it is Agency policy that applicants are required to develop and implement quality management practices for all projects involving environmentally-related measurements or data generation. These practices consist of policies, procedures, specifications, standards, and documentation which will produce data of sufficient quality to meet project objectives and will minimize loss of data due to out-of-control conditions or malfunctions. If the applicant has an EPA-approved quality assurance project plan and it covers the project in the application, then they need only reference the plan in their application. The quality assurance project plan must be acceptable to the Award Official in order to receive a grant award.

In keeping with the graded approach described throughout this plan, Office of Water policy requires that all parties receiving EPA grants/financial assistance under which environmental measurements (primary or secondary data) are performed include either a quality assurance project plan that has been prepared in accordance with *EPA Requirements for Quality Assurance Project Plans (Final, March 2001)*, or equivalent quality system documentation. The level of documentation must be established by Office of Water staff when planning for the grant or financial assistance.

The grant applicant is responsible for preparing the quality system documentation, which is then reviewed and certified by the Quality Assurance Officer or his designee before environmental measurements (primary or secondary data) are taken. For financial assistance grants under the purview of Regions, the Regional Quality Assurance Officer or his designee is responsible for the review and approval of the quality system documentation. At the request of the Regional Quality Assurance Officer, the quality system documentation also may be reviewed and cosigned by the Office of Water Quality Assurance Officer.

If an applicant is unfamiliar with EPA and the Office of Water quality requirements, the project officer should direct them to the appropriate quality staff, either in the Office of Water, or in the Office of Environmental Information. The following are quality requirements by applicant type:

- If an application is for research financial assistance, the application must include a quality statement which either addresses certain areas or provides justification why specific areas do not apply [see 40 *CFR* 30.54].
- If an application is from a State or Tribal government (except for a wastewater treatment construction grant) the applicant must define their plans for completion of the necessary quality system documentation [see 40 *CFR* 31.45].
- All other applicants must submit quality system documentation with their application.

The applicant's quality system documentation shall indicate whether the assistance involves an environmental data generation or use. A description of the program or project associated with the assistance is provided with Standard Form 424. The description contains 5 parts:

1. Objective
2. Results or Benefits Expected
3. Approach
4. General Program/Project Information
5. Quality Assurance Requirement

The decision on whether a grant or cooperative agreement involves environmental data generation or use is determined by the Office of Water Project Manager in consultation with the Quality Assurance Officer and a review of the narrative description provided with the Standard Form 424. The *Programmatic Certification-Authorization to Award an Assistance Agreement* form is signed and dated by the Office of Water Project Manager.

All applicants for grants or cooperative agreements involving environmental programs shall submit quality system documentation which describes the quality system implemented by the applicant, which may be in the form of a quality management plan or equivalent documentation.

The applicant's quality system documentation will be reviewed and approved as a condition for

award of any assistance agreement. The quality system documentation must be submitted as part of the application. If the quality system documentation is not submitted as part of the application and the Office of Water decides to fund the project, then the Office of Water will include a term and condition in the assistance agreement. This term and condition requires the recipient to submit the quality system documentation within a specified time after award of the agreement and notifies the recipient that they may not begin work involving environmental programs until the Office of Water Project Manager informs them that the quality system documentation has been approved.

### *Performance Partnership Agreements*

When States receiving funds from the Office of Water agree to enter into performance partnership agreements with the Office of Water, the performance partnership agreements will be used as a mechanism to define the quality system requirements for the effort and to establish the respective roles of and responsibilities of the State and the Office of Water in quality management activities.

### **Interagency Agreements**

Interagency agreements that are funded by the Office of Water should include quality system documentation requirements in the agreement. Because the Office of Water cannot unilaterally impose such requirements, these requirements must be negotiated into each agreement. Policies and administrative procedures governing interagency agreements are defined in Chapter 5 of *Managing Your Financial Assistance Agreement*. The Office of Water quality system requirements related to environmental data apply to all activities funded by the Office of Water through interagency agreements. Cooperative agreements that will produce environmental measurements must adhere to the quality system documentation requirements in 40 CFR 30.503. These standards must be included explicitly in all cooperative funding agreements.

All interagency agreements with environmental measurement activities which the Office of Water funds, or participates in, will include quality system documentation. Where the Office of Water is providing funds to another organization, that organization is responsible for preparing the quality system documentation. If the other organization has equivalent requirements for quality system documentation, that guidance may be employed. If there are not comparable quality system procedures, the quality system procedures agreeable to both parties must be negotiated prior to initiation of the program or effort and are attached to the Memorandum of Decision. The quality system documentation will be reviewed and certified by the appropriate the Office of Water Quality Assurance Officer before environmental measurements (primary or secondary data) are collected. All proposed cooperative funding agreements shall be reviewed to determine the applicability of quality system requirements as defined in EPA Order 5360.1 A2. This determination shall be documented by the Office of Water quality system staff within the Program Office providing the funding.

Where a quality management plan is required, the plan shall be prepared in accordance with the specifications provided in the most current version of *EPA Requirements for Quality Management Plans* (QA/R-2), which describes the quality system implemented by the party involved in the environmental program. The plan shall define the approving officials of the plan, which, at a minimum will be the Office of Water Quality Assurance Manager.

